

due to willful neglect. An affirmative showing of reasonable cause must be made in the form of a written statement that sets forth all the facts alleged as reasonable cause for the failure to file the notification on time and that contains a declaration by the taxpayer that the statement is made under the penalties of perjury. This statement must be filed with the service center in which the notification was required to be filed. The taxpayer must file this statement with the notice required under section 905(c) and the regulations thereunder or section 404A(g)(2) and the regulations thereunder. If the taxpayer exercised ordinary business care and prudence and was nevertheless unable to file the notification within the prescribed time, then the delay will be considered to be due to reasonable cause and not willful neglect.

(e) *Effective/applicability date*—(1) *In general.* This section applies to foreign tax redeterminations (as defined in § 1.905-3T(c) of this chapter) occurring in taxable years of United States taxpayers beginning on or after November 7, 2007, and in the three immediately preceding taxable years. For corresponding rules applicable to foreign tax redeterminations occurring in earlier taxable years of United States taxpayers, see 26 CFR 301.6689-1T (as contained in 26 CFR part 301, revised as of April 1, 2007).

(2) *Expiration date.* The applicability of this section expires on or before November 5, 2010.

[T.D. 8210, 53 FR 23618, June 23, 1988, as amended by T.D. 9362, 72 FR 62788, Nov. 7, 2007]

§ 301.6690-1 Penalty for fraudulent statement or failure to furnish statement to plan participant.

(a) *Penalty.* Any plan administrator required by section 6057(e) and § 301.6057-1(e) to furnish a statement of deferred vested retirement benefit to a plan participant is subject to a penalty of \$50 in each case in which the administrator (1) willfully fails to furnish the statement to the participant in the manner, at the time, and showing the information required by section 6057(e) and § 301.6057-1(e), or (2) willfully furnishes a false or fraudulent statement

to the participant. The penalty shall be assessed and collected in the same manner as the tax imposed on employers under the Federal Insurance Contributions Act.

(b) *Effective date.* This section shall take effect on September 2, 1974.

[T.D. 7561, 43 FR 38007, Aug. 25, 1978]

§ 301.6692-1 Failure to file actuarial report.

(a) *Penalty.* In each case in which the plan administrator (within the meaning of section 414(g)) of a defined benefit plan to which the minimum funding standards of section 412 apply fails to file the actuarial report described in section 6059 and § 301.6059-1 within the time prescribed, the plan administrator shall pay a penalty of \$1,000. A failure to provide a material item of information called for in the actuarial report is considered a failure to file the report. For this purpose, the signature of an enrolled actuary (see § 301.6059-1(d)) is considered a material item of information.

Further, for any report filed for a plan year ending after January 25, 1982, if the actuary seeks to materially qualify a statement required by § 301.6059-1(c) (4) or (5) there is a failure to provide a material item of information called for in the report. For rules relating to statements not considered as materially qualifying the required statements, see § 301.6059-1(d).

(b) *Failure to make actuarial valuation.* Section 412(c)(9) and the regulations thereunder prescribe the time for making an actuarial valuation of a defined benefit plan. For purposes of this section, the failure to base information called for in the actuarial report upon an actuarial valuation of the plan which is made within the time prescribed by section 412(c)(9) and the regulations thereunder is considered a failure to file the actuarial report.

(c) *Showing of reasonable cause.* The penalty imposed by this section does not apply if it is established to the satisfaction of the appropriate district director or the director of the Internal Revenue Service Center at which the actuarial report is required to be filed that the failure to file the report was due to reasonable cause. An affirmative showing of reasonable cause must be

made in the form of a written statement setting forth all the facts alleged as reasonable cause. The statement must contain a declaration by the appropriate individual that the statement is made under the penalties of perjury.

(d) *Joint liability.* If more than one person is responsible as a plan administrator for a failure to file the actuarial report, all such persons are jointly and severally liable with respect to the failure.

(e) *Manner of payment.* The penalty imposed for the failure to file an actuarial report shall be paid in the same manner as a tax upon the issuance of notice and demand therefor.

(f) *Effective dates.* In the case of a plan in existence on January 1, 1974, this section is effective beginning with the first plan year beginning after December 31, 1975, for which the minimum funding standards of section 412 apply to the plan. In the case of a plan not in existence on January 1, 1974, this section is effective beginning with the first plan year beginning after September 2, 1974, for which the minimum funding standards apply to the plan.

(Secs. 6059 and 7805 of the Internal Revenue Code of 1954 (88 Stat. 947, 68A Stat. 917; 26 U.S.C. 6059, 7805))

[T.D. 7798, 46 FR 57484, Nov. 24, 1981]

§ 301.6693-1 Penalty for failure to provide reports and documents concerning individual retirement accounts or annuities.

(a) *In general.*—(1) *Annual reports, etc.* The trustee of an individual retirement account described in section 408(a), or the issuer of an individual retirement annuity described in section 408(b), who fails to furnish or file a report or any other document required under section 408(i) and § 1.408-5 within the time and in the manner prescribed for furnishing or filing such item shall pay a penalty of \$10 for each failure unless it is shown that such failure is due to reasonable cause.

(2) *Disclosure statements.* The trustee of an individual retirement account described in section 408(a), or the issuer of an individual retirement annuity described in section 408(b), who fails to furnish or file a disclosure statement, a governing instrument, an amendment

to either, or any other document required under section 408(i) and § 1.408-6, within the time and in the manner prescribed for furnishing or filing such item, shall pay a penalty of \$10 for each failure unless it is shown that such failure is due to reasonable cause.

(b) *Showing of reasonable cause.* The penalty imposed by section 6693 shall not apply to any person with respect to a failure to furnish or file a report, statement, or other document within the time and in the manner prescribed if it is established to the satisfaction of the district director that such failure was due to reasonable cause. An affirmative showing of reasonable cause must be made in the form of a written statement, containing a declaration by such person that it is made under the penalties of perjury and setting forth all the facts alleged to constitute reasonable cause.

(c) *Deficiency procedures not to apply.* The penalty imposed by section 6693 may be assessed and collected without regard to the deficiency procedures provided by subchapter B of chapter 63 of the Code.

(d) *Other penalties.* The penalties of section 6693 and this section are in lieu of any penalty imposed by section 6652(f) for violation of section 6047(d), with respect to any failure to furnish or file described in this section.

(e) *Effective date.* This section shall take effect on January 1, 1975.

[T.D. 7730, 45 FR 72652, Nov. 3, 1980]

§ 301.6707-1T Questions and answers relating to penalties for failure to furnish information regarding tax shelters.

The following questions and answers relate to the penalties imposed by section 6707 of the Internal Revenue Code of 1954, as added by section 141(b) of the Tax Reform Act of 1984 (Pub. L. 98-369, 98 Stat. 681), for failure to furnish information regarding tax shelters.

PENALTIES FOR FAILURE TO REGISTER AND FOR PROVIDING FALSE OR INCOMPLETE INFORMATION

Q-1. What are the consequences if a person required to register a tax shelter ("tax shelter organizer") fails to register the shelter timely?